

DEPARTMENT OF TRANSPORTATION**AUDITS AND INVESTIGATIONS**

1304 O STREET, SUITE 200

P. O. BOX 942874 – MS 2

SACRAMENTO, CA 94274-0001

PHONE (916) 323-7111

FAX (916) 323-7123

TTY 711

*Flex your power!
Be energy efficient!*

June 30, 2010

Mr. Jesse B. Brown
Executive Director
Merced County Association of Governments
369 W. 18th Street
Merced, CA 95340

Re: Merced County Association of Governments
Audit of Indirect Cost Allocation Plan for FY 2009/10
File No: P1591-0050

Dear Mr. Brown:

We have audited the Merced County Association of Governments (MCAG) Indirect Cost Allocation Plan (ICAP) for the fiscal year (FY) ended June 30, 2010 to determine whether the ICAP is presented in accordance with Title 2 of the Code of Federal Regulations, (CFR) Part 225 (formerly Office of Management and Budget (OMB) Circular A-87) and the Department of Transportation's (Department) Local Programs Procedures (LPP) 04-10. MCAG management is responsible for the fair presentation of the ICAP. MCAG proposed an indirect cost rate of 46 percent of total direct salaries and wages plus fringe benefits.

Our audit was conducted in accordance with the Standards for Performance Audits set forth in the *Government Auditing Standards* issued by the Comptroller General of the United States of America. The audit was less in scope than an audit performed for the purpose of expressing an opinion on the financial statements of MCAG. Therefore, we did not audit and are not expressing an opinion on the MCAG's financial statements.

The standards require that we plan and perform the audit to obtain reasonable assurance about whether the data and records reviewed are free of material misstatement, as well as material noncompliance with fiscal provisions relative to the ICAP. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the data and records reviewed. An audit also includes assessing the accounting principles used and significant estimates made by MCAG, as well as evaluating the overall presentation.

The accompanying ICAP was prepared on a basis of accounting practices prescribed in the 2 CFR, Part 225 and the Department's LPP 04-10, and is not intended to present the results of operations of MCAG in conformity with generally accepted accounting principles.

The scope of the audit was limited to select financial and compliance activities. The audit consisted of a recalculation of the ICAP and a limited review of MCAG's Overall Work Program for FY 2009/10, a review of MCAG's single audit report for the FY ended June 30, 2008, inquiries of MCAG personnel, and testing performed on MCAG's financial management system and procurement processes as of November 5, 2009. Financial management system changes subsequent to this date were not tested and, accordingly, our conclusion does not pertain to changes arising after this date. We believe that our audit provides a reasonable basis for our conclusion.

Because of inherent limitations in any financial management system, misstatements due to error or fraud may occur and not be detected. Also, projections of any evaluation of the financial management system to future periods are subject to the risk that the financial management system may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

The results of this audit were communicated to Judi Perry, MCAG Accountant, on November 5, 2009, and June 16, 2010. Our findings and recommendations take into consideration MCAG's response to our draft findings dated June 17, 2010. Our findings and recommendations, a summary of MCAG's response, and our analysis of the response are detailed below. See Attachment I for a copy of MCAG's response.

AUDIT RESULTS

Based on audit work performed, MCAG's ICAP for the FY ended June 30, 2010 is presented in accordance with 2 CFR, Part 225 and LPP 04-10. The approved indirect cost rate is 46 percent of total direct salaries and wages, plus fringe benefits. The approval is based on the understanding that a carry-forward provision applies and no adjustment will be made to previously approved rates.

MCAG requested a provisional rate of 33 percent on July 14, 2009. The provisional rate was approved on July 16, 2009. As agreed in the provisional rate request, within 30 days of issuance of this audit report MCAG must reconcile all prior reimbursed claims under the provisional rate with the final approved rate. MCAG will include any underpayments on the next billing to the Department. Interest may not be claimed on the underpayments.

Audit Findings

Finding 1

While reviewing project billing worksheets, we found that MCAG was unable to support \$2,494.77 in costs billed on one federal project, number CML-0695(035). We noted that MCAG's billing worksheet for this project had a formula error in one of the cells that created an

overbilling to the Department. Without verifying the accuracy of supporting worksheets, MCAG could potentially overbill the Department on future projects.

49 CFR 18.20 (b)(2), Accounting Records, states, "Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities." In addition, 49 CFR 18.20 (b)(6), Source Documentation, states that accounting records must be supported by such source documents as cancelled checks, paid bills, payroll, time and attendance records etc.

Recommendation:

We recommend that MCAG repay the Department \$2,494.77 and ensure in the future that supporting worksheets are verified for accuracy before submitting Department billings.

MCAG'S Response: MCAG concurred with the finding. See Attachment I for detailed response.

Analysis of Response: After reviewing the additional information sent by MCAG we acknowledge that a credit in the amount of \$2,494.77 was given to the Department on invoice 32A dated February 4, 2010. Finding is resolved.

Finding 2

During the audit we noted the Executive Director's timesheets were not approved. The lack of a secondary signature acknowledging the review and approval of the Executive Director's timesheets increases the risk that potential time reporting errors may go undetected. MCAG management was not aware of the increased risk posed by the lack of approval. According to 49 CFR 18.20 (b)(3), Internal Controls, effective control and accountability must be maintained for all grants and subgrants.

Recommendation:

We recommend the MCAG Board designate a Board member(s) to review and sign the Executive Director's timesheets to ensure his time records undergo the same review and approval process as other MCAG personnel.

MCAG'S Response: MCAG concurred with the finding. See Attachment I for the detailed response.

Analysis of Response: MCAG provided some examples of current Executive Director's timesheets, which show the signature of a member of the Governing Board. Finding stands as written.

Finding 3

MCAG procurement procedures need to be strengthened. During our audit we noted MCAG advertises Request for Proposals (RFP) only on its own website and through a MCAG-maintained mail list. In addition, we found that MCAG did not maintain records supporting the use of the mail list.

23 CFR 172.5(a)(1), Methods of Procurement, states, "The proposal solicitation (project, task, or service) process shall be by public announcement, advertisement, or any other method that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of the contract."

49 CFR 18.36(d)(3)(i) & (ii), Procurement By Competitive Proposals, states that Requests for Proposal will be publicized. Proposals will be solicited from an adequate number of qualified sources.

Public Contract Code 10140 states in part "Public notice of a project shall be given by publication once a week for at least two consecutive weeks or once a week for more than two consecutive weeks if the longer period of advertising is deemed necessary by the department."

MCAG's current advertising procedures do not ensure all potentially qualified consultants (in-state and out-of-state) are made aware of MCAG's RFPs. At the time of the audit, MCAG management indicated they believed the advertising procedures were adequate.

Recommendation:

We recommend MCAG strengthen their procurement procedures by advertising RFPs in wide circulation media (newspaper, magazine, or trade journal) and maintain documentation of the advertisement effort.

MCAG'S Response: MCAG concurred with the finding. See Attachment I for the detailed response.

Analysis of Response: Finding stands as written.

Finding 4

MCAG did not maintain documentation which showed the procurement of the SR 165 Improvement Project Study Report (contract award of \$510,000) was in compliance with federal and state procurement requirements. This finding is based upon the following:

- MCAG originally advertised the SR165 Request for Proposal (RFP) in March 2006 and then held evaluation interviews in May 2006. During the audit, MCAG could not provide copies of the March 2006 RFP or the original Prospective Proposer letter which would have identified the advertised evaluation criteria. MCAG did retain the Consultant Rating Results (interview) documentation which identified four evaluation criteria weighted with equal point values.
- As a result of scope changes, MCAG re-advertised the SR165 project in June 2006. MCAG provided the auditors with a copy of the Prospective Proposer letter dated June 1, 2006, which identified five evaluation criteria without stated point values. The fifth evaluation criteria was identified as "the other criteria on the Consultant Evaluation Sheet (Caltrans Exhibit 10-B)".
- MCAG provided the auditors with a copy of the SR 165 RFP dated June 1, 2006, in which the only reference to evaluation is a copy of the Department's Local Assistance

Procedures Manual Exhibit 10-B (example RFP evaluation criteria) entitled as "MCAG Evaluation Sheet". Exhibit 10-B lists seven evaluation criteria with separate point values.

- MCAG procurement records indicate that the three original RFP proposers were also the same proposers on the revised RFP, and as a result, MCAG decided to base their revised RFP selection on the original RFP Consultant Rating Results.

49 CFR 18.36 (c)(3)(ii), states that grantees will have written selection procedures for procurement transactions that identifies all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. In addition, 49 CFR 18.36(d)(3)(i), Procurement By Competitive Proposals, states that requests for proposals will identify all evaluation factors and their relative importance.

Without the original SR 165 RFP, MCAG is unable to demonstrate the interview evaluation criteria relied upon for the revised SR 165 RFP is consistent with the original advertised criteria. Utilizing an interview criteria that is inconsistent with advertised criteria does not provide for fair and open competition. At the time of the audit, MCAG management indicated that they were not aware that the same interview evaluation criteria must be used as advertised in the RFP.

Recommendation:

We recommend MCAG implement procurement procedures that ensure interview evaluation criteria are consistent with advertised criteria on all future procurements. In addition we recommend the Department require MCAG to identify and repay the total amount of Department reimbursements received for the SR165 contract.

MCAG'S Response: MCAG did not concur with the finding. See Attachment I for the detailed response.

Analysis of Response: Finding stand as written.

This report is intended solely for the information of MCAG, Department Management, the California Transportation Commission and the Federal Highway Administration (FHWA). However, this report is a matter of public record and will be included on the "Reporting Transparency in Government" website.

Please retain the approved ICAP for your files. Copies were sent to the Department's District 5, the Department's Division of Accounting and the FHWA. If you have any questions, please contact Lisa Moreno, Auditor, at (916) 323-7885 or Cliff Vose, Audit Manager, at (916) 323-7917.

Original Signed by

MARYANN CAMPBELL-SMITH
Chief
External Audits-Local Governments

Attachments

- c: Brenda Bryant, Director, Financial Services, Federal Highway Administration
Sue Kiser, Director, Planning and Air Quality, Federal Highway Administration
James Ogbonna, Chief, Rural Transit and Intercity Bus Branch, Division of Mass
Transportation
Jenny N. Tran, Associate Account Analyst, Local Program Accounting Branch,
Local Assistance
Andrew Knapp, Associate Transportation Planner, Regional and Interagency Planning,
Division of Transportation Planning
Mike Giuliano, Local Assistance Engineer, District 5
P1591-0050

ATTACHMENT I

MERCED COUNTY ASSOCIATION OF GOVERNMENTS' RESPONSE

P1591-0050

June 17, 2010

Department of Transportation
Audits and Investigations
Maryann Campbell-Smith
Chief External Audits
1304 O Street, Suite 200
P. O. Box 942874 – MS 2
Sacramento, CA 94274-0001

RE: Merced County Association of Governments (MCAG)
Audit of Indirect Cost Allocation Plan for FY 2009-2010
File No: P1591-0050
Findings Response

Dear Ms. Campbell-Smith:

Below is MCAG's response to each of the findings listed on your letter dated June 29, 2010.

Finding 1

MCAG was unable to support certain costs billed on federal project number CML-0695(035) in the amount of \$2,494.77.

MCAG's Response: As noted in your description, this was due to a calculation error in one cell of the spreadsheet for an indirect calculation. This error was limited to this one project only. The error was corrected and the amount deducted from billing #32A dated February 4, 2010.

Finding 2

The Executive Director's timesheets are not being approved.

MCAG's Response: The Executive Director's timesheets are now being signed, on a regular basis, by a Governing Board member.

Finding 3

MCAG procurement procedures need to be strengthened by advertising the Request For Proposal's (RFP) in wide circulation media (newspaper, magazine, or trade journal).

MCAG's Response: MCAG will strengthen our procurement procedures to comply with the fair and open competitive negotiations of a contract by advertising the Request for Proposal's (RFP) in wide circulation media, such as newspaper, magazine, or trade journal.

Finding 4

The procurement of the SR 165 Improvement Project Study Report was improperly procured since the evaluation criteria advertised was not used for the interview evaluation.

MCAG's Response: MCAG used the same basic criteria that was advertised and just summarized in a different format after interviews. Therefore, the contract was procured in a fair and competitive environment so the funds do not need to be returned. To avoid any confusion in the future, MCAG will make sure that the criteria evaluation form for the interview and any subsequent summaries of forms are exactly the same as advertised.

If you have any additional questions please contact me at your convenience, (209) 723-3153 ext. 302

Sincerely,

Jesse Brown
Executive Director

MERCED COUNTY ASSOCIATION OF GOVERNMENTS

(MCAG)

Metropolitan Planning Organization (MPO)

Indirect Cost Plan

REVISED 07/14/09

The indirect cost rate contained herein is for use on grants, contracts and other agreements with the Federal Government and California Department of Transportation (Department), subject to the conditions in Section II. This plan was prepared by the City and approved by the Department.

SECTION 1: Rates

<u>Rate Type</u>	<u>Effective Period</u>	<u>Rate*</u>	<u>Applicable To</u>
Fixed with carry forward	7/01/09 to 6/30/10	46%	All Programs

* Base: Total Direct Salaries and Wages plus fringe benefits

SECTION II: General Provisions

A. Limitations:

The rates in this Agreement are subject to any statutory or administrative limitations and apply to a given grant, contract, or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the organization were included in its indirect cost pool as finally accepted; such costs are legal obligations of the organization and are allowable under the governing cost principles; (2) The same costs that have been treated as indirect costs are not claimed as direct costs; (3) Similar types of costs have been accorded consistent accounting treatment; and (4) The information provided by the organization which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government or the Department. In such situations the rate(s) would be subject to renegotiation at the discretion of the Federal Government or the Department; (5) Prior actual costs used in the calculation of the approved rate are contained in the grantee's Single Audit, which was prepared in accordance with OMB Circular A-133. If a Single Audit is not required to be performed, then audited financial statements should be used to support the prior actual costs; and, (6) This rate is based on an estimate of the costs to be incurred during the period.

B. Accounting Changes:

This Agreement is based on the accounting system purported by the organization to be in effect during the Agreement period. Changes to the method of accounting for costs, which affect the amount of reimbursement resulting from the use of this Agreement, require prior approval of the authorized representative of the cognizant agency. Such changes include, but are not limited to, changes in the charging of a particular type of cost from indirect to direct. Failure to obtain approval may result in cost disallowances.

C. Fixed Rate with Carry Forward:

The fixed rate used in this Agreement is based on estimate of the costs for the period covered by the rate. When the actual costs for this period are determined—either by the grantee's Single Audit or if a Single Audit is not required, then by the grantee's audit financial statements—any differences between the application of the fixed rate and actual costs will result in an over or under recovery of costs. The over or under recovery will be carried forward, as an adjustment to the calculation of the indirect cost rate, to the second fiscal year subsequent to the fiscal year covered by this plan.

D. Audit Adjustments:

Immaterial adjustments resulting from the audit of information contained in this plan shall be compensated for in the subsequent indirect cost plan approved after the date of the audit adjustment. Material audit adjustments will require reimbursement from the grantee.

E. Use by Other Federal Agencies:

Authority to approve this agreement by the Department has been delegated by the Federal Highway Administration, California Division. The purpose of this approval is to permit subject local government to bill indirect costs to Title 23 funded projects administered by the Federal Department of Transportation (DOT). This approval does not apply to any grants, contracts, projects, or programs for which DOT is not the cognizant Federal agency.

The approval will also be used by the Department in State-only funded projects.

F. Other:

If any Federal contract, grant, or other agreement is reimbursing indirect costs by a means other than the approved rate(s) in this Agreement, the organization should (1) credit such costs to the affected programs, and (2) apply the approved rate(s) to the appropriate base to identify the proper amount of indirect costs allocable to these programs.

G. Rate of Calculation:

FY 2009/2010 Budgeted Indirect Costs	\$ 551,169	<See indirect cost calculation detail Attachment A - page 3>
Carry Forward from FY 2007/2008	<u>253,014</u>	<Carryforward calculation Attachment A - page 2>
Estimated FY 2009/2010 Indirect Costs	\$ 804,183	
FY 2009/2010 Budgeted Direct Salaries and Wages plus Fringe Benefits	\$1,744,790	<See indirect cost calculation detail Attachment A - page 3>
FY 2009/2010 Indirect Cost Rate	46%	

CERTIFICATION OF INDIRECT COSTS

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

- (1) All costs included in this proposal to establish billing or final indirect costs rates for fiscal year **2009/2010 (July 1, 2009 to June 30, 2010)** are allowable in accordance with the requirements of the Federal and State award(s) to which they apply and OMB Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments." Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.
-

(2) All costs included in this proposal are properly allocable to Federal and State awards on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal Government and the Department will be notified of any accounting changes that would affect the fixed rate.

I declare that the foregoing is true and correct.

Governmental Unit: Merced County Association of Governments

Signature: 7- - - - -

Signature: _____

Reviewed, Approved and Submitted by:

Prepared by:

Name of Official: Jesse B. Brown

Name of Official: Judi PerryTitle: *Executive Director*Title: *Accountant*

Date of Execution: 07/14/09

Telephone No.: (209) 723-3153 Ext 333

INDIRECT COST RATE APPROVAL

The Department has reviewed this indirect cost plan and hereby approves the plan.

Signature _____

Signature _____

Reviewed and Approved by:

Reviewed and Approved by:

Mary Ann Campbell-Smith
Name of Audit Manager

Lisa Moreno
Name of Auditor

Title: Chief-External Audits - Local Govts

Title: Auditor

Date: 6/30/10

Date: 6/30/2010

Phone Number: 916-323-7105

Phone Number: 916-323-7885